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"AMENDED PETITION"

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

Writ Petition No. 263 of 2003

Petitioner : M/s. Pancha Raghu Taank
Ramnivas Sarda & Co.
A Regd. Partnership Firm Through
Partner Smt. Shakuntala Devi Sarda,
G.E. Road, Rajnandgaon (C.G.)

VERSUS

Respondents :
(1) Collector (Nazul Branch)
Rajnandgaon (C.G.)
(2) Municipal Corporation,
Through Commissioner,
Rajnandgaon (C.G.)
(3) State of Chhattisgarh Through
Secretary Public Housing Town
Planning & Development,
D.K.S. Bhawan Mantralaya,
Raipur (C.G.)

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PETITION UNDER ARTICLE 226 (1) & (2) / 227 OF THE CONSTITUTION OF INDIA FOR A WRIT IN THE NATURE OF CERTIORARI / MANDAMUS, PROHIBITION ETC.

The petition of the petitioner above named most respectfully sheweth: -

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Writ Petition No. 263 of 2003

Petitioner		M/s.Pancha Raghu Taank Ramnivas Sarda & Co.
	Versus	
Respondents		Collector (Nazul Branch) Rajnandgaon & others

Shri Shashank Dubey, Senior Counsel with Neelab Dubey, counsel for the petitioner.
Shri A.S. Kachhawaha, Government Advocate for the respondents No. 1 and 3/State.
Shri Anand Shukla, counsel for the respondent No.2.

ORDER
(Passed on 10th of November, 2006)

1. The petitioner Registered Partnership Firm has filed this petition impugning the order dated 10.09.2001 (Annexure P/6) whereby the petitioner was directed to hand over 15% i.e. 12272 Square feet of the land in respect of plot No. 239/1 in favour of the Municipal Corporation, Rajnangdaon.
2. This Court, by order dated 04.02.2004, granted interim order not to dis-possess the petitioner from the land in question. The petitioner accordingly continued in possession of the disputed land.
3. During pendency of this petition Rule 10 of The Chhattisgarh Nagar Palika (Registration of Colonizer, Terms and Conditions) Rules, 1998

was amended by notification dated 14.07.2006. The notification reads as under,

"1. After sub-rule (1) of the following proviso, shall be inserted, namely :-

"Provided any land reserved for the persons belonging to economically weaker sections which had been handed over to the Municipal Corporation/Municipal Council/Nagar Panchayat, in accordance with applicable rule at that time by a colonizer for which the cost had bot been paid to the colonizer by the municipality and which land is vacant may be released by the municipality in favour of the colonizer on deposit of shelter fee at the rates prescribed above."

2. In sub-rule 7 of rule 10 the following shall be substituted, namely :-

"The Commissioner/Chief Municipal Officer of the concerned municipality shall collect the shelter fee for the municipal area which shall be deposited by opening a separate account which shall be under the municipality concerned and for the area out side the municipal area but located within the planning area of the concerned town, the Collector shall collect shelter fee which shall be deposited by opening a separate account which shall be under the Collector. The funds deposited in the said accounts shall be utilized in accordance with the instructions issued by the State

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Government from time to time." In view of the amended rules, the petitioner undertakes todeposit shelter fee at the rates prescribed under the Rules.

4. Shri Anand Shukla, learned counsel appearing for the Municipal Corporation agres with the submission made by learned counsel appearing for the petitioner and submits that the Municipal Corporation has no objection if the petition is disposed of with the direction that the petitioner to deposit the shelter fee at the rate of the above prescribed rules.

5. In view of the above-stated facts and submission made by the parties, the petitioner is permitted to deposit the shelter fee at the rate prescribed under amended Rules, 1998, within a period of four weeks. Learned counsel appearing for the Municipal Corporation, Rajnandgaon and State submit that the warrant of possession shall not be executed in view of the subsequent development, and in case of deposit of shelter fee.

6. As a result and foregoing reasons, this petition stands disposed of. There shall be no order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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